



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.1112 OF 2024

Bharat Sitaram Shegokar

Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Shegaon, District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M. N. Ali, Counsel for the applicant.

Mr. C. A. Lokhande, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/02/2025

1. The applicant came to be arrested on 23.03.2019 in connection with Crime No.138/2019 registered with Police Station Shegaon, District Buldhana for the offence punishable under Sections 143, 147, 148, 302, 452, 324 read with Section 149 of the Indian Penal Code.

2. The allegation against the present applicant is on the basis of First Information Report lodged by Jyoti Ashok Wankhade on an allegation that on 22.03.2019 at 8.45 p.m. the applicant, along with the other co-accused, entered in her house and attacked her elder son Akshay Ashok Wankhade which resulted into his death. It is further alleged that there was previous dispute between the families of the applicant Bharat Sitaram Shegokar and the

deceased Akshay Ashok Wankhade as the applicant's daughter reportedly eloped with and subsequently married with Ashish Ashok Wankhade and on that count, the deceased was assaulted and the role played by the present applicant that he has given a blow of knife on the chest of the deceased which resulted into the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that as far as the merit of the matter is concerned, the involvement of the present applicant is revealed. However, there is an inordinate delay in trial, and therefore, the right of speedy trial enshrined under Article 21 of the Constitution is affected, and therefore, the applicant be released on bail. In support of his contention he placed reliance the decision of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another in Criminal Appeal No.2787 of 2024.**

4. Per contra, learned APP strongly opposed the said application and submitted that considering the nature of the offence that the applicant and other co-accused entered into the house due to the previous enmity, as the daughter of the present applicant has married with one Ashish and on that count, there was enmity between the two parties. He submitted that on perusal of the investigation papers

the involvement of the present applicant is revealed. A mere delay in trial is not sufficient to release him on bail. In view of that, the application deserves to be rejected.

5. On perusal of the investigation papers and on hearing of both the sides, there is no dispute as to the fact that the FIR is lodged on 23.03.2019. The applicant is also arrested on 23.03.2019. The recitals of the FIR shows that it was the present applicant who has given a knife blow on the chest of the deceased and caused the death of the deceased. There are eye witnesses to the said incident. Thus, as far as the merit of the matter is concerned, admittedly, there is a sufficient material to connect the present applicant with the alleged offence. The application is filed mainly on the ground that there is an inordinate delay in trial and the right of the present applicant enshrined under Article 21 of the Constitution is affected, and therefore, he be released on bail. Learned Counsel for the applicant relied upon the decision of Hon'ble Apex Court in the case of **Sheikh Javed Iqbal @ Asfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh in Criminal Appeal No.2790/2024 decided on 18 July, 2024** wherein the Hon'ble Apex Court dealt with the issue regarding the speedy trial and held that Section 43D(5) of the UAP Act does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution.

Long incarceration with the unlikelihood of the trial being completed in the near future is a good ground to grant bail.

6. Herein the present case, applicant is arrested on 23.03.2019. After completion of investigation, the charge-sheet is filed on 18.06.2019. The status report which is called from the Sessions Judge shows that muddemal was not deposited by the prosecution, and therefore, the case was pending. Recently prosecution has deposited the muddemal and only one witness is examined. From the report it further reveals that the NBW were issued against the four accused and those could not be served, and therefore, the trial was not commenced. As far as the present applicant is concerned, who is behind the bar since 23.03.2019. The status report specifically shows that trial was not commenced as muddemal was not produced before the Court. The roznama also shows that on various occasions the accused was also not produced before the Court, and therefore, the charge is not framed. Thus, considering the report of the learned Sessions Judge and in view of the observations of the Hon'ble Apex Court that if the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not

oppose the plea for bail on the ground that the crime committed is serious. Admittedly, the crime committed is serious, but in view of the observation of the Hon'ble Apex Court and in view of the Article 21 of the Constitution, the applicant cannot be kept behind bars for an indefinite period. In view of that the application deserves to be allowed. Accordingly, I proceed to pass following order.:

ORDER

- (i) The criminal application is allowed.
- (ii) The applicant **Bharat Sitaram Shegokar** shall be released on bail in connection with Crime No.138/2019 registered with Police Station Shegaon, District Buldhana for the offence punishable under Sections 143, 147, 148, 302, 452, 324 read with Section 149 of the Indian Penal Code, on executing PR Bond of Rs.50,000/- with one solvent surety of the like amount.
- (iii) The applicant shall not enter in the vicinity of Shegaon, District Buldhana till culmination of trial.
- (iv) The applicant shall furnish his detailed address where he is intending to reside after he is released on bail.
- (v) The applicant shall not leave the jurisdiction of Buldhana District without prior permission of the District Court, Khamgaon.
- (vi) The applicant shall attend the proceeding before the Sessions Judge without seeking any exemption unless there are exceptional circumstances.

(vii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(viii) The contravention of any of the conditions imposed would lead to the cancellation of bail.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)